

APPLICANT:
Kenneth W. and Denise L. Sliker

REQUEST: Variance to allow an existing
attached garage within the required front
yard setback

HEARING DATE: June 2, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5421

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Kenneth and Denise Sliker

LOCATION: 1319 Wiley Oak Drive/Centennial Oaks, Jarrettsville
Tax Map: 32 / Grid: 3B / Parcel: 500 / Lot: 13
Fourth Election District

ZONING: RR / Rural Residential

REQUEST: A variance pursuant to Section 267-35B, Table III of the Harford County Code to
allow an existing attached garage to be within the required 40 foot front yard
setback (10 foot setback existing).

TESTIMONY AND EVIDENCE OF RECORD:

Kenneth W. Sliker, Applicant, testified that the subject property, which is an approximately one acre lot located in the Centennial Oaks subdivision outside of Jarrettsville, was the subject of Board of Appeals Case No. 5181, decided in November 2001. The favorable decision in that case allowed a variance to the 40 foot front yard setback to construct a detached garage. A variance was granted, which allowed Mr. Sliker to construct a garage 10 foot from his front property line. That decision also found the property to be unique.

Mr. Sliker properly constructed the detached garage. The Applicant then constructed an attached sunroom to the rear of his house, and then decided to connect the sunroom to the detached garage in order to create a covered breeze-way between the two structures. The breeze-way, however, acted to convert the formerly detached garage to an attached structure. Accordingly, Mr. Sliker now finds himself to be in violation of the Harford County Code as an attached part of his house, i.e., the formerly detached garage, now extends into the required 40 foot front yard setback. This variance is accordingly requested.

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The 2001 Board of Appeals decision which granted the variance to originally construct the detached garage into the 40 foot front yard setback found the property to be unique. The decision stated:

“The property is a corner lot and hence subject to two front yard setbacks. In addition, the developer recorded the subdivision plat with a setback, greater than that required by the Harford County Code. Development in the rear yard is limited by the existing septic system and septic reserve.”

Mr. Sliker testified that he had no knowledge, when the breeze-way was built, that he would be in violation of the Zoning Code. His contractor expressed no concern to the Applicant that he would be in violation. Mr. Sliker testified that the issue arose due to inadvertence only.

Mr. Sliker feels that the practical difficulty would be his being required to remove the breeze-way. He feels it has no adverse impact on the neighborhood. He has spoken to his neighbors, and no neighbor has expressed any problem or objection to the use.

Next testified Nancy Lipski of the Harford County Department of Planning and Zoning. Ms. Lipski referred to the Staff Report, and testified that the property was subject to a prior variance as testified to by Mr. Sliker and as found by the earlier Board decision. The variance requested in this case would not impact the existing setback any further than has already been impacted by the attached garage. Ms. Lipski feels there would be no adverse impact on the neighborhood and the variance should be granted.

No opponent testified or presented evidence in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

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- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The subject property is clearly unusual. The Applicant went to the time and trouble of properly requesting a front yard setback variance in order to construct what appears to be, based upon the photographs of record, an attractive garage. The garage appears to be one which is generally built to the same standard as, and clearly conforms to the appearance of, the existing dwelling. It is found that the existing garage for which the variance was sought and granted, the house, and the breeze-way do not adversely affect the neighborhood. Indeed, it could be said that the property as a whole would improve any neighborhood in which it was located.

Accordingly, the finding of the Hearing Examiner in Case No. 5181 is hereby adopted. Specifically adopted are the findings by the Hearing Examiner that the subject property is unique, and that the proposed variance in that case would have no adverse impact on the neighborhood. The Applicant indeed demonstrates that the finished garage supports his original argument that there would be no adverse impact on the neighborhood.

The Applicant has now, as a result of inadvertence, constructed a covering over the space between the house and the garage. That covering creates a breeze-way which has the certainly unintended effects of, causing the garage to be an attached structure to the dwelling, which accordingly constitutes a violation of the front yard setback.

The breeze-way construction has no adverse impact on the neighborhood. If anything, it improves the appearance of the subject property and, again, makes the subject property an even more attractive property within its neighborhood.

The practical difficulty suffered by the Applicant, as a result of his unusual situation, is that he would be required to either remove the breeze-way, or reconstruct it in such a fashion so that it does not physically touch either the garage or the dwelling house.

The Hearing Examiner concludes that the facts of the Applicants situation do not require them to suffer such a difficulty.

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CONCLUSION:

It is recommended that the requested variance be granted.

Date: June 24, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner